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REMARKS

Status of Claims

Claims 3 and 12 are pending in this application. These claims are rejected on new grounds of rejection, namely, 35 U.S.C. 103(a) as being unpatentable over Scott, et al. (U.S. 6,484,260) in view of Kinsella (U.S. 6,148,094).

Claims 3 and 12 are amended herein. No new matter is presented and the changes requested are not radical or difficult to understand.

Summary of Argument

In summary the applicants have provided a biometric passkey device that is enabled to log transactions and transmit transactions regardless of whether the user is authenticated for the full scope of authorized transactions for a particular device. If the user is not authenticated biometrically the user may still perform some transactions as allowed by the authorization profile of the device. Furthermore, the transaction made by the unauthenticated user will be logged in the audit log of the device and biometric information of the unauthenticated user will also be stored in the audit log.

The Scott, et al. (U.S. Patent 6,484,260) Reference

The Scott reference discloses a device that includes a biometric sensing system and processing unit that is capable of transmitting a verification signal to a host system if the device user is an enrolled person. Such verification signal transmitted from the device is indicative of authorization to perform transactions by the enrolled person operating the device.

In Scott a verification signal is transmitted to a host system only if the biometric signal of the device user corresponds to the biometric data stored in the device. Scott does not teach transmitting device information and "transactions allowable under the authorization profile storage" as is herein claimed in proposed amended claim 3.

Scott does not teach "authorization profile storage, the authorization profile storage storing permissible dates, times, functions, and transactions allowable to be accessed by the biometric passkey device" also claimed in proposed amended claim 3

and in proposed amended claim 12 in less detail.

The Kinsella (U.S. Patent 6,148,094) Reference

Kinsella is cited to teach the use of authorization profile storage. Kinsella's authorization profile will allow authorized transactions based on the permissions granted to users of a device. In Kinsella the device can be used by more than one user and each of these users has a scope of authorization stored in the authorization profile storage (Column 10, lines 13-19). Authenticable users may have authorizations different from authorizations granted to other users.

Kinsella also teaches audit log storage. This is not needed by Scott since if a transaction is authorized through the Scott device the host terminal will have a record of the transaction and there will be no need for an onboard audit log. Therefore there is no motivation for Scott to incorporate the teachings of Kinsella into the Scott device.

Kinsella teaches that users having different authorization profile storage privileges can use a common device on which each user has been authorized. That is, several persons can be authorized as users on a device as long as their biometric information has been saved on the device.

In the current application, and as claimed in proposed amended claims 3 and 12, a transaction can be undertaken using a biometric passkey device where the user is not a user whose biometric information is stored on the device. In such a situation a transaction may be initiated and completed if the device authorization profile storage does not block the transaction. In Kinsella, transactions allowable by the authorization profile storage of the device allow transactions, subject to the authorization profile storage, by persons who are authorized to conduct a transaction as a result of biometric authentication. That is not the case in this application. Here some transactions are allowable even by biometrically unauthenticated users as long as the authorization profile storage allows such transactions to such users.

The Scott and Kinsella Combination

Scott and Kinsella, taken in combination, do not teach or suggest the claimed invention as defined by the proposed amended claims. Scott does not include

authorization profile storage (or audit log storage which is included in the pending claims), this element, the profile storage element, of the proposed amended claims is only taught by Kinsella.

The applicant contends that there is no motivation for Scott to seek to include authorization storage in his device. If a user of the Scott device is rejected as he is not a verified user (Fig. 7, item 118 and Fig. 8, item 200) then no transaction is permitted. Furthermore there is no authorization profile in Scott that indicates that even limited access is permissible as there is in this application. If a user of the Scott device is not authenticated by biometric authentication the user's device will not send any signal, much less transaction information, to a host computer.

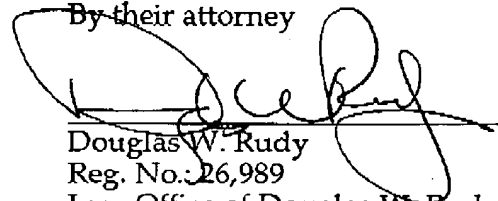
Furthermore, with the amendments to the claims requested herein, the combination of Scott and Kinsella will still not support an obviousness rejection based on Scott in view of Kinsella. The requested amendment to claim 3 is to claim that device information is sent after the user's identity is compared to biometric information stored with the passkey device, but not necessarily authenticated. If the user is authenticated and the device identification is authenticated then a transaction that falls within the authorization profile storage parameters can occur. On the other hand, if the user is a non-authenticated user and the device identification is authenticated then a transaction that falls within the authorization profile storage parameters for a non-authenticated user can occur. An authenticated user may be given broader access than the scope or content of authorization granted to a user that is "unauthenticated" or, as stated in the application "non-authenticated." This situation is taught in the application at page 8, lines 14-28.

It is believed that the proposed amendments to the claims present patentable subject matter that is neither anticipated or obvious from the art of record.

The Applicants' appreciate the Examiner's position but urge that the Examiner allow entry of the claims presented as amended here and further, that the Examiner enter an allowance of these claims.

If the Examiner has any comments or questions, please feel free to contact applicants' attorney at 480-361-5676.

Respectfully submitted,
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By their attorney



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CERTIFICATION OF FACSIMILE TRANSMISSION
I hereby certify that this paper and the documents referred to as being attached herewith are being sent by facsimile transmission to the United States Patent and Trademark Office central facsimile number (571.273.8300) on November 24, 2006.

Douglas W. Rudy

